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4/28/2020 10:55 am

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANDY M. GAYOT a/k/a ANDREW GAYOT,

Petitioner,

-against-

ORDER TO SHOW CAUSE
19-CV-04657 (JMA)

STATE OF NEW YORK,

Respondent.

-----X

AZRACK, United States District Judge:

On August 12, 2019, *pro se* petitioner Andy M. Gayot a/k/a Andrew Gayot (“Petitioner”) filed a petition for issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (the “Petition,” ECF No. 1) together with an application to proceed *in forma pauperis*. (ECF No. 2.) Upon review of the Petition, and Petitioner’s declaration in support of the application to proceed *in forma pauperis*, the Court finds that Petitioner is qualified to commence this action without prepayment of the filing fee. 28 U.S.C. § 1915(a)(1).

Accordingly, it is ORDERED, that

- 1) Petitioner’s application to proceed *in forma pauperis* (ECF No. 2) is GRANTED;
- 2) Within sixty (60) days of receipt of this order, the Attorney General of the State of New York, or the District Attorney of Suffolk County, as attorney for Respondent, shall: (a) show cause before this Court by the filing of a return to the Petitioner, why a writ of habeas corpus should not be issued; and (b) shall serve a copy of their return on the Petitioner herein and file the original thereof with proof of such service, with the Clerk of this Court;
- 3) Simultaneously, Respondent is required to electronically file the State Court Record—

including the trial transcript and record; copies of petitioner's and the District Attorney's briefs on appeal; briefs in connection with any proceedings pursuant to Section 440 of the New York Criminal Procedure Law; briefs in connection with any proceedings pursuant to an application for a writ of error coram nobis; and all relevant state court decisions and opinions—with no individual attachment exceeding twenty (20) megabytes;

4) Respondent is also directed to supply a hard copy of the State Court Record to Chambers clearly marked "Courtesy Copy, original filed on ECF";

5) Petitioner, within twenty-one (21) days of service of a copy of the return, shall file a reply, if any, with the Clerk of this Court and serve a copy thereof upon Respondent;

6) If the District Attorney serves and files a motion to dismiss the Petition on the grounds that it was not timely filed, the District Attorney may defer filing a return (and the accompany State Court Record) pending the determination of the motion to dismiss; and

7) Service of a copy of this Order to Show Cause shall be made by the Clerk of this Court electronically, together with a copy of the Petition, to the Attorney General of the State of New York and to the District Attorney of Suffolk County, and by mailing a copy of this order to the Petitioner.

SO ORDERED.

Date: April 28, 2020
Central Islip, New York

/s/ (JMA)
Joan M. Azrack
United States District Judge